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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/009,746	12/05/2001	Friedrich-Karl Bruder	Mo-6840/LeA 33,726	6704
157	7590	12/15/2004		
BAYER MATERIAL SCIENCE LLC 100 BAYER ROAD PITTSBURGH, PA 15205				
EXAMINER ANGEBRANDT, MARTIN J				
ART UNIT		PAPER NUMBER		
1756				

DATE MAILED: 12/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

10/009,746

Applicant(s)

BRUDER ET AL.

Examiner

Martin J Angebrannt

Art Unit

1756

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 December 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]


- a) ☒ The period for reply expires eight months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

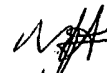
1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☒ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: none.
- Claim(s) objected to: none.
- Claim(s) rejected: 2 and 8-14.
- Claim(s) withdrawn from consideration: _____.
8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____


Martin J Angebrannt
Primary Examiner
Art Unit: 1756

Continuation of 5. does NOT place the application in condition for allowance because: With respect to the declaration of Josef STAWITZ, there appears to have been an attempt to make the dye of example 15 of JP 63-307987 through a treatment of PbPC with sulfuric acid under certain conditions. No other synthesis was attempted, but the applicant note that the literature (copy enclosed) notes that PbPC is synthesized by combining lead sulfate and H₂-PC and that Pb metal centers are generally unstable in the presence of strong acids. Based upon the inability to synthesize the Pb compound IV in the declaration, the declaration asserts that the disclosure must have been in error/accidental. The declaration makes no mention of the compounds used in other examples (page 4/lower left) or samples 8 and 13 in table on page 5. There is also no translation of the JP document on the record and it is not clear that Josef STAWITZ can read Japanese and support the assertion that there is no preparation disclosed for the dyes identified by the examiner. The assertion is incorrect and the process on page 2 in the lower left column dissolves the metal phthalocyanine in Chlorosulfonate, treats the solution with thionyl chloride to form the chlorosulfonate Metal PC and then treat is with an amine to form the compound of formula in that column. The assertion that the PbPC compound IV is an inadvertent disclosure and hence the general disclosure of compounds where Y is 0 and X is 4 is not enabled by JP 63-307987 is without firm support. The examiner notes that no statements are made by Josef STAWITZ with respect to these other compounds or the ability of the compound of Yanagisawa to be made. The examiner notes that all of the rejections deal with embodiments of the claimed invention where X is 4 and Y is 0. Noting this, the use of the symbol "~" in declaration B, and the disclosure in the first declaration that the presence of the sulfate groups increases solubility, the applicant might wish to consider amending the claims to exclude the case, where Y is zero and obviate the rejections. The examiner also notes that in Nett et al. '064, dodecylbenzenesulphonic acid is used, rather than the mineral acid which clearly establishes for the record that alternative to the mineral acid synthesis are known in the art. The issue of the ligand has been addressed previously. The formula of Yanagisawa et al. may be slightly incorrect when applying it to so many different metal centers. The chemistry of the metal defines the composition which can be formed, not the representations/formula written on paper of what the compound might be. Cu has fewer coordination sites than Si and the analog is not arrived at by merely substituting the Cu for the Si, but by substituting the Cu for the Si(OH)₂. The applicants representative asserts that the sulphate groups do not affect the solubility is ridiculous on its face as these are clearly easily dissociated (loss of the hydrogen) to form the charged moiety. Declaration B makes no statements concerning the solubility, merely the ability of one compound to be made. In the context of the arguments the use of the "~" in the declaration does not seem to be a sign of complete support.


12/15/04